

REMARKS

This application has been carefully reviewed in light of the final Office Action dated February 12, 2010. Claims 1, 9 to 11, and 22 to 25 are in the application, with Claim 1 being independent. Reconsideration and further examination are respectfully requested.

Claims 22, 24, and 25 were rejected under 35 U.S.C. § 112, second paragraph. These rejections are respectfully traversed, and are submitted to have been obviated by the amendments made herein.

Claims 1, 9, 10, and 22 to 24 were rejected under 35 U.S.C. § 103(a) over Biosensors and Bioelectronics, Vol. 18, 2003, pp. 1455-1459 (Sheehan) in view of U.S. Publication No. 2004/0115722 (Kronick). Claims 11 and 25 were rejected under 35 U.S.C. § 103(a) over Sheehan in view of Kronick and further in view of U.S. Publication No. 2004/0009512 (Ares). These rejections are respectfully traversed.

According to one feature of the claims as recited by Claim 1, the number of spots for the genes differs depending on the genes.

The Office Action concedes that Sheehan does not disclose the foregoing feature. Yet, placing reliance on Kronick, and using a teaching-suggestion motivation rationale, the Office Action asserts that the invention would nevertheless have been obvious. Applicant respectfully disagrees.

Applicant respectfully submits that there is no indication of motivation in any of the cited documents that would lead one of ordinary skill in the art to modify Sheehan with Kronick to arrive at the above-discussed feature.

The dependent claims are also submitted to be patentable because they set

forth additional aspects of the claims and are dependent from the independent claim discussed above. Therefore, separate and individual consideration of each dependent claim is respectfully requested.

In any event, Applicant respectfully submits that most of the disclosures of Kronick relied upon by the Office Action are not available as prior art by virtue of the August 28, 2003 filing date of Japanese priority application no. 2003-209247. Specifically, Kronick is a continuation-in-part (CIP) application, and most of the disclosures relied upon by the Office Action are not entitled to a date of October 25, 2002, which is the filing date of Kronick's parent Application No. 10/281,408. These disclosures are not entitled to a date of October 25, 2002 since they were not present in the application as filed in 2002. Rather, the first time these disclosures appear is November 25, 2003, which is the CIP filing date of Kronick. A sworn translation of the Japanese priority application is being submitted herewith.

The application is believed to be in condition for allowance, and a Notice of Allowance is respectfully requested.

No fees are believed due; however, should it be determined that additional fees are required, the Director is hereby authorized to charge such fees to Deposit Account 06-1205.

Applicant's undersigned attorney may be reached in our Costa Mesa, California office by telephone at (714) 540-8700. All correspondence should be directed to our address given below.

Respectfully submitted,

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